

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-159

April 8, 2002

NIAGARA MOHAWK ENERGY
MARKETING, INC.
Application for License to Operate as a
Competitive Electricity Provider
(Amendment to Current License)

ORDER AMENDING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

On May 31, 2000 in Docket No. 2000-319, this Commission granted a license to Niagara Mohawk Energy Marketing, Inc. (NMEM) to operate as a competitive electricity provider (CEP) in Maine, pursuant to Chapter 305 of the Commission's Rules. In its application for the license, NMEM documented its financial capability to serve residential and small commercial consumers through the filing of a surety bond as required by Chapter 305. That Rule requires that a CEP license to serve such consumers "will not be issued or remain in force until the applicant or licensee furnishes a surety bond or letter of credit" MPUC Rules, ch. 305, § 2(B)(1)(a)(i). With its initial application, NMEM provided a surety bond issued by the Fidelity and Deposit Company of Maryland to satisfy that requirement.

On February 11, 2002, the Commission received a Notice of Cancellation from Fidelity and Deposit Company of Maryland to the effect that the bond provided by NMEM with its initial application was being cancelled effective April 8, 2002. As a result of the bond cancellation, NMEM will no longer maintain the financial requirements of Chapter 305 to serve residential and small commercial consumers as of that date. On March 21, 2002, NMEM requested that the Commission restrict its license to serve consumers other than residential and small commercial consumers in Maine. NMEM stated that it does not currently serve, and does not intend to serve such consumers in Maine. Accordingly, Chapter 305 does not require NMEM to maintain a surety bond in effect to serve larger consumers in Maine. We find NMEM's request to restrict its license reasonable.

On March 4, 2002, the Commission received a copy of a filing by the New England Power Pool (NEPOOL) with the Federal Energy Regulatory Commission (FERC) seeking to terminate the NEPOOL membership of Niagara Mohawk Energy, Inc. (NIMO) effective December 31, 2001. In its application, NMEM relied on NEPOOL Participant membership of NIMO/NMEM to satisfy Chapter 305 requirements that an applicant demonstrate ability to satisfy NEPOOL

requirements. In its March 21, 2002 letter, NMEM advised that as a result of a recent reorganization, NMEM is now known as Select Energy New York, Inc. (SENY).¹ With that letter, NMEM provided documentation of SENY's membership in NEPOOL, and documentation of approval by the Maine Secretary of State of its name change. We accordingly find NMEM's name change request reasonable.

Accordingly, we

ORDER

1. That pursuant to Chapter 305, the license granted to Niagara Mohawk Energy Marketing, Inc. in Docket No. 2000-319 on May 31, 2000 is amended to reflect a change in the licensee's name to Select Energy New York, Inc.;
2. That pursuant to Chapter 305, the license granted to Niagara Mohawk Energy Marketing, Inc. in Docket No. 2000-319 on May 31, 2000, is restricted to authorize Select Energy New York, Inc. to provide service only to consumers other than residential and small commercial consumers in Maine, effective immediately and until further action by this Commission; and
3. That the Administrative Director send a copy of this Order to Select Energy New York, Inc., and to all Transmission and Distribution utilities participating in electric restructuring in Maine.

Dated at Augusta, Maine, this 8th day of April, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

¹ SENY is a wholly-owned subsidiary of Select Energy, Inc. The Commission granted Select Energy, Inc. a license to operate as a CEP in Maine on October 13, 1999 in Docket No. 1999-614. The March 21, 2002 letter advised that SENY is "reviewing the potential to consolidate our accounts" under the license of Select Energy, Inc., but Commission approval for such actions is not being sought at this time.

COMMISSIONERS VOTING FOR: Nugent
Diamond

COMMISSIONER ABSENT: Welch

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.